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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/692,007	10/19/2000	Stephen P. DeOrnellas	TEGL1082US1 SRM	7175

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FLIESLER DUBB MEYER & LOVEJOY, LLP  
FOUR EMBARCADERO CENTER  
SUITE 400  
SAN FRANCISCO, CA 94111

EXAMINER
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UMEZ ERONINI, LYNETTE T

ART UNIT	PAPER NUMBER
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1765

DATE MAILED: 07/03/2003

19

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/692,007

Applicant(s)

DEORNELLAS ET AL.

Examiner

Lynette T. Umez-Eronini

Art Unit

1765

-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on June 23, 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 10-49 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 10-49 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 10-49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fullowan et al. (US 5,176,792) in view of Moslehi (US 5,192,849).

Fullowan teaches a method for etching a pattern on a workpiece including the steps of:

selecting a workpiece with a hard mask deposited over a (tungsten) layer to be etched, which hard mask is comprised of a (titanium mask **12**) reactive metal (column 1, lines 51-54 and column 2, lines 39-44). Since Fullowan uses the same hard mask material as described in the present invention, then using Fullowan's hard mask layer in the same manner as that of the claimed invention would result in said hard mask having a low reactivity to the etch chemistry of an etch process, **as in claim 13** and said hard mask has a low sputter yield and a low reactivity to etch chemistry of an etch process, **as in claims 22 and 28**;

plasma etching the mask workpiece to selectively remove the unmasked tungsten and performing the etching in a plasma etcher that is water-cooled to room temperature (column 2, lines 55-61), reads on,

processing the workpiece in a reactor using an etch step and exposing the hard mask to the etch.

Fullowan differs in failing to teach providing energy to the reactor in order to increase the rate of oxidation of the hard mask in order to slow down the rate of erosion of the hardmask, **in claims 10, 13, 22, 25, 26, 28, 29, 30, 34.**

Moslehi teaches conventional RF plasma chucks can usually operate in the range of 0°C to 200°C (column 3, lines 8-11); the chuck can experience temperatures operating in the range of -150°C to 750°C (column 6, lines 48-51); the RF chuck is compatible with single-wafer plasma processing reactors and has the advantage of improving the etch rate in reactive-ion etching of polysilicon, aluminum, oxides, and polyimides (column 5, lines 12-14 and 22-26). Since Moslehi operates a chuck in a reactive ion etching method and at temperatures that overlap those of the present invention, and uses the same material (i.e. aluminum) as a hard mask as claimed in the present invention, then using Moslehi method of operating a RF plasma chuck in the same manner as the claimed invention, reads on providing energy to the reactor and would increase a rate of oxidation of the hard mask in order to slow down the rate of erosion of the hard mask.

It is the examiner's position that it would have been obvious to one having ordinary skill in the art at the time of the claimed invention to modify Fullowan by using Moslehi's method of providing energy to the reactor for the purpose of improving reactive ion etch rate of the material being etched (Moslehi, column 5, lines 22-29).

***R sponds to Arguments***

3. Applicant's arguments filed June 23, 2003 have been fully considered but they are not persuasive. Applicant traverses the 103 rejection of claims 10-49 over Fullowan (US 5,176,792) in view of Moslehi (US 5,192,849). Applicant argues that since Fullowan teaches depositing titanium, etched from the hard mask, onto the sidewalls being etched in the underlying tungsten material, in order to obtain vertical sidewalls and virtually no undercut (column 3, lines 4-11), then it would not be desirable to slow the etch rate of the mask, as a decrease in titanium can have a corresponding increase in undercutting of tungsten (col. 3, lines 1-40). Hence, Fullowan teaches away from "slowing the rate of erosion of the hard mask" as in claim 10.

Applicant's arguments are unpersuasive because Moslehi is relied upon to teach the deficiency of Fullowan. Since Moslehi operates a chuck that is used in reactive ion etching the same material (i.e. aluminum) as a hard mask as claimed in the present invention and at temperatures that overlap that of the present invention, then using Moslehi method of operating a RF plasma chuck reads on providing energy to the reactor and would increase a rate of oxidation of the hard mask in order to slow down the rate of erosion of the hard mask.

Applicant traverses the motivation for combining the references. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references

themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, the reason to combine Fullowan in view of Moslehi would be for the purpose of improving reactive ion etch rate of the material being etched (Moslehi, column 5, lines 22-29).

### ***Conclusion***

4. This is a continuation of applicant's earlier Application No. 09/692,007. All claims are drawn to the same invention claimed in the earlier application and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynette T. Umez-Eronini whose telephone number is 703-306-9074. The examiner is normally unavailable on the First Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Benjamin Utech can be reached on 703-308-3836. The fax phone numbers for the organization where this application or proceeding is assigned are 703-972-9310 for regular communications and 703-872-9311 for After Final communications.

  
**BENJAMIN L. UTECH**  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700

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July 1, 2003